



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

August 28, 2019

BY ECF

The Honorable Paul A. Engelmayer
United States District Judge
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *United States ex rel. Brutus Trading, LLC v. Standard Chartered Bank, et al.*,
No. 18 Civ. 11117 (PAE)

Dear Judge Engelmayer:

I write respectfully on behalf of the United States of America (the “Government”) in this action filed by relator Brutus Trading, LLC, pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. §§ 3729-3733, in which the Government has declined to intervene, ECF No. 3. Upon careful consideration, the Government has decided to move to dismiss this action pursuant to its authority under 31 U.S.C. § 3730(c)(2)(A). Unlike a traditional motion to dismiss under Federal Rule of Civil Procedure 12(b), a government motion to dismiss under Section 3730(c)(2)(A) is evaluated under an extremely deferential standard, although its precise contours are not yet settled in this Circuit. *See United States ex rel. Borzilleri v. AbbVie, Inc.*, No. 15 Civ. 7881 (JMF), 2019 WL 3203000, at *1 (S.D.N.Y. July 16, 2019) (giving the government either an “unfettered” right to dismiss an action unless there is “fraud on the court,” or requiring that it “demonstrate a valid government purpose for dismissal and a rational relation between dismissal and accomplishment of that purpose” (internal quotation marks and brackets omitted)).

Given this, the Government has conferred with the relator and the defendants, and the parties jointly propose the following briefing schedule—and further respectfully suggest that the Court adjourn without date the briefing schedule it already set for the defendants to move to dismiss the relator’s complaint, ECF No. 17. The parties propose that the Government file its motion to dismiss on **October 31, 2019**, that the relator file its opposition on **December 13, 2019**, and that the Government file its reply on **January 13, 2020**.

We thank the Court for its consideration of this request.

Respectfully,

GEOFFREY S. BERMAN
United States Attorney

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